

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

FILED

MAR 27 2023

U.S. DISTRICT COURT-WVND
MARTINSBURG, WV 25401

MENGYANG LI,
Plaintiff,

CIVIL ACTION NO.: **3:19-CV-216**
(US DISTRICT JUDGE GINA M. GROH)

v.

SHEPHERD UNIVERSITY,
Defendant.

**NOTICE OF APPEAL THE ORDER DENYING THE PLAINTIFF'S MOTION
TO POSTPONE SUBMISSION DEADLINE OF JOINT PROPOSED SCHEDULE
AND
THE AMENDED SCHEDULING ORDER**

Notice is hereby given that MENGYANG LI (Plaintiff, pro se) in the above named case, hereby appeal to the United States Court of Appeals for the 4th Circuit (from **THE ORDER DENYING THE PLAINTIFF'S MOTION TO POSTPONE SUBMISSION DEADLINE OF JOINT PROPOSED SCHEDULE AND THE AMENDED SCHEDULING ORDER**) entered in this action on February 24, 2023.

This NOTICE OF APPEAL is filed on Monday March 27, 2023 to preserve Plaintiff's right to have a counsel and his right to have a fair trial in a Federal Court.

District Judge GROH on 12/8/2022 issued ORDER DIRECTING THE PARTIES TO ATTEND MEDIATION AND SUBMIT JOINT PROPOSED SCHEDULE. ECF No. 55. The ORDER requires: “the parties shall submit a joint schedule for the Court’s consideration on or before January 24, 2023. Further, the parties shall mediate the remaining count in good faith no later than January 31, 2023.” On 12/12/2022 Mediation Judge TRUMBLE ORDERED that Mediation be on 1/10/2023. On 12/30/2022 Plaintiff filed MOTION TO REQUEST TO POSTPONE THE 1/10/2023 MEDIATION **because the 2019 Complaint needs to be amended as “in the past more than two years, many much more serious, systematic, and conspired Discriminations, Retaliations and Violations of my Civil Rights by Shepherd University Officials happened, and much more serious damages have been done”**. Defendant Shepherd University opposed Plaintiff’s MOTION TO REQUEST TO POSTPONE THE 1/10/2023 MEDIATION. Judge TRUMBLE denied Plaintiff’s MOTION TO REQUEST TO POSTPONE THE 1/10/2023 MEDIATION. Plaintiff **(without a lawyer)** attended the 1/10/2023 Mediation but the Mediation was not successful.

On December 30, 2022 Judge Groh issued ORDER SCHEDULING PREJUDGEMENT HEARING which scheduled a hearing on January 4, 2023 for Shepherd University’s Counterclaim for Detinue. On January 4, 2023 Plaintiff **(without a lawyer)** filed PLAINTIFF’S RESPONSE TO DEFENDANT’S COUNTERCLAIM FOR DETINUE, AND PLAINTIFF’S UNDER-OATH AND DOCUMENTED CLAIMS FOR DEFENDANT ILLEGALLY SEARCHING PLAINTIFF’S PERSONAL ITEMS, FOR DETINUE, AND PLAINTIFF’S REQUEST FOR COURT TO ORDER TO

PRESERVE EVIDENCES, PREVENT EVIDENCE TAMPERING AND WITNESS TAMPERING (ECF No. 67) together with Exhibit T: 9-1-2022 Amended Grievance (ECF No. 67-1) which gives more evidences of serious violations of Plaintiff's Civil Rights.

In the January 4, 2023 hearing, Judge Groh encouraged Plaintiff to have a lawyer representation, Plaintiff expressed appreciation to Judge Groh for that encouragement. After the unsuccessful 1/10/2023 Mediation, Judge TRUMBLE suggested plaintiff to amend the Complaint by adding the recent "wrongful termination", which agrees with Plaintiff's intension to amend.

On 1/24/2023 I filed PLAINTIFF'S MOTION TO REQUEST TO POSTEPONE THE SUBMISSION DEADLINE OF JOINT PROPOSED SCHEDULE (ECF NO. 78), IN WHICH I STATED: Plaintiff had been actively seeking a lawyer representation and to have the lawyer to amend the lawsuit. But unfortunately, to the deadline 1/24/2023, plaintiff had not succeeded in finding the lawyer representation. **Several lawyers commented that my case is "large" and "complex". To inform the COURT the extent of facts of this case:** I filed EXHIBIT T: 9-1-2022 Amended Grievance (ECF No. 67-1); further on 1/24/2023 I filed EXHIBIT U: 10-24-2022 Amended Grievance (ECF No. 78-1) and EXHIBIT V: 1-9-2023 Amended Grievance (ECF No. 78-2).

Shepherd University filed motion and asked Judge Groh to give Plaintiff an extension of no more than 30 days. Judge Groh gave 29 days extension to February 22, 2023 to file Joint Proposed Schedule.

Plaintiff contacted more than one dozen employment lawyers, none of them agree to take my case. Some commented short notice to the deadline (for this “large” and “complex” case). One lawyer told me that Judge Groh favors employer. On 2/22/2023 Plaintiff filed motion to request for an additional 60 days for Plaintiff to find a lawyer:

“Today 2/22/2023 Plaintiff has not succeeded in seeking counsel representation for this Race and National Origin Discriminations, Retaliations and Wrongful Termination case. Many much more serious violations of Race and National Origin Discriminations and Retaliations and many other serious violations of Plaintiff’s Civil Rights were done by Defendant in the past 3 years since the original filing of this case; Plaintiff was wrongfully terminated on 12/9/2023. The original pro se case filed on 12/23/2019 needs to be amended by a Counsel by adding the many much more serious violations of Race and National Origin Discriminations and Retaliations and many other serious violations of Plaintiff’s Civil Rights done by Defendant in the past 3 years plus the Wrongful Termination. There are lawyers commented short notice to the deadline (for the ‘large’ and ‘complex’ case). Plaintiff requests an extension of additional 60 days for seeking lawyer representation.”

“Plaintiff has also begun to file at the EEOC to seek help from the EEOC.”

“In Plaintiff’s 2/1/2023 and 2/3/2023 filings at the COURT, **Plaintiff requested COURT to order Defendant to preserve Plaintiff’s specific research materials/equipment/instruments in the labs.**

Plaintiff and the Defendant have been working to resolve but have not yet resolved this issue of Plaintiff’s specific research materials/equipment/instruments in the labs which are needed to complete the Federal and State funded Plaintiff’s research.”

“Because of the heavy burden of continuous on-going Shepherd University Officials' discriminations/retaliations on me and my pro se legal processes to fight University Officials' continuous on-going discriminations/retaliations for more than 6 years, my research project has been delayed for an extended period of time. My research at Shepherd already generated world class results, in which Shepherd students contributed, but is not completed. My research is funded by the Federal and the State governments (not only to me but also to my Shepherd students). It should be completed.”

On 2/22/2023 Shepherd University filed Motion to oppose giving Plaintiff any more extension to find a lawyer and submitted the Defendant Shepherd University Proposed Schedule (ECF No. 86).

On February 24, 2023 Judge Gena M. Groh issued ORDER DENYING THE PLAINTIFF'S MOTION TO POSTPONE SUBMISSION DEADLINE OF JOINT PROPOSED SCHEDULE (ECF No. 87) and issued ORDER adopting the Defendant Shepherd University Proposed Schedule (ECF No. 88, Terminate deadlines & hearings) which Ordered:

“14. **Deadlines Final:** The time limitations set forth above shall not be altered except as set forth in LR Civ P 16.01(f). “

“15. **Finality of Scheduling Order:** Unless authorized by the Court, the above dates and requirements of this Scheduling Order are **FINAL**.

Therefore, **NO** additional evidence developed as a result of deviations from the above will be admissible at trial, and no untimely motions will be considered.”

It is unfair for Plaintiff to proceed without a lawyer representation for this “large” and “complex” case of Discriminations/Retaliations/Denying Promotions/Wrongful Termination as Judge Groh ordered in the U.S. District Court for the Northern District of West Virginia Martinsburg (ECF Nos. 87, 88).

Plaintiff requests the U.S. Court of Appels for the Fourth Circuit to put this 12/23/2019 filed case of Discriminations/Denying Promotions on-hold. Plaintiff is filing with the EEOC for the Discriminations/Retaliations/Wrongful Termination that occurred after 2019. During the filing at EEOC, Plaintiff will continue to seek a lawyer representation. Plaintiff hopes that both cases could be resolved through the EEOC process. If the cases could not be resolved through the EEOC process, Plaintiff will plan to file the new Discriminations/Retaliations/Wrongful Termination case at another Court.

If the U.S. Court of Appeals for the Fourth Circuit deny my above request to put the 12/23/2019 filed case on-hold, I would then request to assign another U.S. District Judge for this case.

There are other damages caused by the more than 7 years Race and National Origin Discriminations/Retaliations/Denying Promotions/Wrongful Termination by Shepherd University especially by its leaders including President Mary Hendrix: I had been diagnosed having Mild Dilated Ascending Aorta (enlarged main heart artery) in October 2022 and I just had an Anxiety Attack/Vertigo ended first in the Urgent Care then in the Hospital Emergency Department on March 22-23, 2023. My wife had stress induced ulcer bleeding, very large blood infusions, and stomach cancer surgery and stayed in the hospitals for total of 9 days during August-October 2022. My wife never had any serious medical problems before. Nor did I have any heart problems before.

This Notice of Appeal to the United States Court of Appeals for the 4th Circuit is filed at the US District Court for the Northern District of West Virginia on March 27, 2023. The 30th day from the 2/24/2023 Order is Sunday 3/26/2023. 3/27/2023 is the Monday after Sunday 3/26/2023. This Notice of Appeal is filed timely.

Under oath I certify that above is true and correct to the best of my knowledge.

Respectfully,

Mengyang Li

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Plaintiff,

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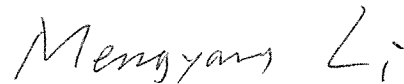
v.

SHEPHERD UNIVERSITY,
Defendant.

CERTIFICATE OF SERVICE

I, Mengyang Li, appearing pro se, hereby certify that on March 27, 2023, I have served the foregoing upon all counsel of record, by email delivery to:

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Mengyang Li